

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

JEREMY RANKINS,

Petitioner,

v.

CIVIL ACTION NO. 5:23-cv-558

KATINA HECKARD,

Respondent.

**ORDER**

Pending are Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 [ECF 1], Petitioner's Motion for Appointment of Counsel [ECF 2], and Petitioner's Motion to Waive the Requirement to Exhaust Administrative Remedies [ECF 3], all filed August 21, 2023. This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R on November 29, 2023. Magistrate Judge Eifert recommended that the Court dismiss, without prejudice, Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, deny as moot Petitioner's Motion for Appointment of Counsel and Motion to Waive the Requirement to Exhaust Administrative Remedies, and remove this action from the docket of the Court.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis

added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on December 18, 2023. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 9], **DENIES AS MOOT** Petitioner's Motion for Appointment of Counsel [ECF 2] and Petitioner's Motion to Waive the Requirement to Exhaust Administrative Remedies [ECF 3], **DISMISSES WITHOUT PREJUDICE** Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 [ECF 1], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: January 12, 2024



Frank W. Volk  
United States District Judge